

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #9	CCRB Case #: 201605457	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/21/2016 10:50 PM	Location of Incident: West 42nd Street between 8th Avenue and 7th Avenue	Precinct: 14	18 Mo. SOL 12/21/2017	EO SOL 12/21/2017	
Date/Time CV Reported Thu, 06/23/2016 1:53 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/23/2016 1:53 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Tarakur Chowdhury	03951	934643	PBMS
2. POM Michael Ashford	04887	954506	PBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Mathimohan Mohandas	11894	954142	PBMS
2. POM David Lachmenar	21671	955034	PBMS

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Ashford	Abuse: Police Officer Michael Ashford stopped § 87(2)(b)	[REDACTED]
B.POM Michael Ashford	Abuse: Police Officer Michael Ashford issued a summons to § 87(2)(b)	[REDACTED]
C.SGT Tarakur Chowdhury	Abuse: Sergeant Tarakur Chowdhury issued a summons to § 87(2)(b)	[REDACTED]

Case Summary

On June 21, 2016, at approximately 10:50 p.m. five members of a Cop Watch group, § 87(2)(b) and § 87(2)(b) were walking east on the south side of West 42nd Street, between Seventh and Eighth Avenues in Manhattan. They encountered PO Michael Ashford of Patrol Borough Manhattan South. They saw him on his smartphone, and tried to convince him to stop using his cellphone, since they believed that it was against proper Patrol Guide procedure. When PO Ashford refused to do so, § 87(2)(b) said to the rest of the group, "Let's leave this piece of shit alone," and began to walk away, along with the rest of the group. PO Ashford then walked after § 87(2)(b) and requested his identification (**Allegation A**). When § 87(2)(b) refused to provide his identification, PO Ashford handcuffed him, and called his supervisor, Sgt. Tarakur Chowdhury of Patrol Borough Manhattan South. Sgt. Chowdhury arrived with PO Mathimohan Mohandas and PO David Lachmenar, both of Patrol Borough Manhattan South. PO Ashford placed § 87(2)(b) in the patrol van that arrived on scene, and Sgt. Chowdhury ordered that § 87(2)(b) be detained. Both § 87(2)(b) and § 87(2)(b) were transported to the Midtown South Precinct and issued summonses for disorderly conduct (**Allegation B and C**). § 87(2)(b)'s summons was issued for his use of profanity, and § 87(2)(b)'s was issued for blocking pedestrian traffic (Board Review 1 and 2). No civilian was charged or injured as a result of this incident.

§ 87(2)(b) provided two videos of the incident. A portion of one of the videos appears below. The full videos appear in IA #24 and IA #25 (Board Reviews 3 and 4). The full transcription of these videos appears in IA #28 (Board Review 5).



2016-08-31_18-11-45.mp4

Mediation, Civil and Criminal Histories

- On July 1, 2016, § 87(2)(b) rejected mediation during an in-person interview (Board Review 6).
- On August 26, 2016, the New York City Office of the Comptroller confirmed that no notice of claim has been filed in relation to this incident (Board Review 7).

- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

- PO Ashford has been a member of service for two years. One prior CCRB complaint with two allegations has been filed against him. Neither of these allegations has been substantiated (Board Review 12).
 - § 87(2)(g) [REDACTED]
- Sgt. Chowdhury has been a member of service for twelve years. Two prior CCRB complaints, each with one allegation, have been filed against him. Neither of these allegations has been substantiated (Board Review 12)
 - § 87(2)(g) [REDACTED]

Potential Issues

- § 87(2)(b) [REDACTED] did not give a statement to the CCRB, because he directed all communications through his attorney, who became unresponsive to CCRB contact attempts during the course of the investigation.
- Contact information could not be located for § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] and the investigation subsequently could not reach them.

Findings and Recommendations

Allegations not pleaded

- **Abuse:** § 87(2)(b) [REDACTED] alleged that Sgt. Chowdhury threatened to arrest both § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] but § 87(2)(b) [REDACTED] did not allege that Sgt. Chowdhury did so, and the video does not show this allegation. As such, a threat of arrest allegation is not being pleaded against Sgt. Chowdhury.
- **Abuse:** § 87(2)(b) [REDACTED] alleged that PO Ashford searched § 87(2)(b) [REDACTED] just before § 87(2)(b) [REDACTED] was taken into custody. The investigation determined that PO Ashford conducted this search incident to taking § 87(2)(b) [REDACTED] into custody. As such, a search allegation is not being pleaded against PO Ashford.
- **Force:** § 87(2)(b) [REDACTED] alleged that PO Ashford pushed § 87(2)(b) [REDACTED] during the incident. The video shows PO Ashford guiding § 87(2)(b) [REDACTED] backwards in a way that the investigation determined did not rise to the level of misconduct. As such, a force allegation is not being pleaded against PO Ashford.

Allegation A –Abuse of Authority: PO Michael Ashford stopped § 87(2)(b) [REDACTED]

Allegation B –Abuse of Authority: Sgt. Tarakur Chowdhury issued a summons to § 87(2)(b) [REDACTED]

Allegation C –Abuse of Authority: PO Michael Ashford issued a summons to § 87(2)(b) [REDACTED]

It is undisputed that § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] all approached PO Ashford to confront PO Ashford about his cell phone use. It is undisputed that they carried on a brief verbal argument with him that ended in § 87(2)(b) [REDACTED] calling him a “piece of shit.” It is undisputed that after § 87(2)(b) [REDACTED] called PO Ashford this, he began to walk away, with the rest of the group. It is undisputed that after the group walked a short distance on West 42nd Street, PO Ashford made the decision to stop § 87(2)(b) [REDACTED] solely for his use of profanity, and subsequently requested § 87(2)(b) [REDACTED]’s identification. It is not in dispute that § 87(2)(b) [REDACTED] refused to provide his identification, and that PO Ashford then placed him in handcuffs. Sgt.

Chowdhury then arrived on scene, directed PO Ashford to take § 87(2)(b) and § 87(2)(b) into custody, and transport them to the Midtown South Precinct. Sgt. Chowdhury then directed PO Ashford to write one disorderly conduct summons each for § 87(2)(b) and § 87(2)(b). § 87(2)(b) testified that § 87(2)(b) and the rest of the group confronted PO Ashford because he was using his cellphone while on duty. They spoke with him briefly, and when they could not convince him to stop using his cellphone, § 87(2)(b) said, “Let’s leave this piece of shit alone.” He and the rest of the group then continued walking east on West 42nd Street. PO Ashford then requested § 87(2)(b)’s identification, which § 87(2)(b) refused to provide. PO Ashford then handcuffed § 87(2)(b) and called Sgt. Chowdhury to the scene. When Sgt. Chowdhury arrived on scene, PO Ashford searched § 87(2)(b). After he did so, Sgt. Chowdhury directed other officers on scene to take § 87(2)(b) into custody as well. § 87(2)(b) and § 87(2)(b) were then taken to the Midtown South Precinct stationhouse, where they were issued criminal summonses and then released (Board Review 6).

PO Ashford’s statement is largely consistent with that of the civilians’. PO Ashford did not remember why the members of the group approached him, but he also remembered that they spoke with him briefly. Just before he walked away, § 87(2)(b) used the word “shit,” and said it loud enough that people passing could hear. He did not use it in a threatening manner. § 87(2)(b) and the rest of the group then walked 100 feet away, and PO Ashford followed them, to stop § 87(2)(b) for using profanity. The use of profanity was the sole reason that PO Ashford requested § 87(2)(b)’s identification, and stopped him. § 87(2)(b) refused to provide his identification after multiple requests to do so. PO Ashford then handcuffed him for refusing to provide his identification. PO Ashford then called Sgt. Chowdhury to the scene. Sgt. Chowdhury arrived on the scene in a van, and PO Ashford placed § 87(2)(b) in the van, in order to take him back to the stationhouse. Sgt. Chowdhury also directed that § 87(2)(b) be placed in custody. Both § 87(2)(b) and § 87(2)(b) were taken to the Midtown South Precinct, where they were released with disorderly conduct summonses (Board Review 13).

Sgt. Chowdhury’s testimony is consistent with the rest of the statements provided. When Sgt. Chowdhury arrived on scene, he saw PO Ashford, with § 87(2)(b) in handcuffs. PO Ashford told Sgt. Chowdhury that he stopped § 87(2)(b) for his use of profanity. PO Ashford then guided § 87(2)(b) into a van. Sgt. Chowdhury told § 87(2)(b) to move back several times, because he was encroaching on the scene of the arrest. After § 87(2)(b) refused to move back, Sgt. Chowdhury took him into custody, and transported both § 87(2)(b) and § 87(2)(b) to the Midtown South precinct stationhouse. Sgt. Chowdhury stated that from the stationhouse, he directed PO Ashford to issue two disorderly conduct summonses, one for § 87(2)(b) and one for § 87(2)(b) (Board Review 14).

The video in this case aligned with both civilian and officer testimony, in that it shows PO Ashford explaining to § 87(2)(b) that, “you cannot curse in public,” and that § 87(2)(b)’s cursing gave him “probable cause” to stop § 87(2)(b) (Board Review 3, 4, and 5).

The summons PO Ashford issued to § 87(2)(b) lists the statement for which § 87(2)(b) was stopped as, “Let’s leave this piece of shit alone” (Board Review 1).

People v. DeBour, 40 N.Y.2d 201 (1976) allows officers to stop any individual they believe to be engaging in, just having engaged in, or just about to engage in criminality (Board Review 15). The New York State penal code specifies that individuals committing disorderly conduct do so, “with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof” (Board Review 16).

It is undisputed that PO Ashford stopped § 87(2)(b) simply for making the statement “Let’s leave this piece of shit alone.” It also undisputed that PO Ashford decided to stop § 87(2)(b) after he already began to walk away from him. It is undisputed that PO Ashford wrote § 87(2)(b) a summons for this statement under the direction of Sgt. Chowdhury.

§ 87(2)(b), § 87(2)(g)

Additionally, when Sgt. Chowdhury first arrived at the scene of the stop, he learned that PO Ashford stopped § 87(2)(b) exclusively for his use of profanity, and handcuffed him after § 87(2)(b) refused to provide his identification on request. Sgt. Chowdhury then authorized PO Ashford to transport § 87(2)(b) to the Midtown South stationhouse and issue him a disorderly conduct summons. In doing so, Sgt. Chowdhury implicitly concurred that using profanity in a public place constituted disorderly conduct.

§ 87(2)(b), § 87(2)(g)

Squad #9

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date